

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 10-20652

LEAVI NIETUBICZ,

Defendant.

**ORDER DENYING DEFENDANT'S MOTION FOR RECONSIDERATION
OF ORDER OF DETENTION**

Before the court is Defendant Leavi Nietubicz's "Motion for Reconsideration of Order of Detention." Defendant has been indicted of one count of being a felon in possession of a firearm under 18 U.S.C. § 922(g)(1). Following a detention hearing on October 27, 2010, Defendant was released from temporary detention on unsecured bond. As a condition of release, the court ordered home detention. After repeated violations of this order, Defendant was scheduled to appear before this court for a bond hearing on December 13, 2010. Defendant failed to appear. Bond was revoked. The court issued a warrant for Defendant's arrest. Hours passed. Eventually, Defendant appeared late in the day, at which point he was arrested. Defendant has been detained since that day.

On January 14, 2011, Defendant filed the instant motion for reconsideration based upon 18 U.S.C. § 3142. To the extent that the motion is—as it purports to be—a motion for reconsideration, it is untimely filed, coming more than fourteen days after the order revoking bond. See E.D. Mich. LCrR 12.1; E.D. Mich. LR 7.1(h)(1). Therefore,

the court considers it only as a motion pursuant to § 3142(f). A detention hearing pursuant to § 3142 was held on October 27, 2010, at which time Defendant was released subject to conditions requiring, among other conditions, that Defendant “appear at all proceedings as required.” (10/27/2010 Order.) Defendant failed to abide the conditions of this release, ultimately failing to appear for a hearing before the court regarding Defendant’s release on bond. At that point, the court revoked Defendant’s release. As Defendant correctly argues, the court may reopen the hearing at any time before trial. 18 U.S.C. § 3142(f). Reopening the hearing is not appropriate, however, unless the court determines “that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of such person as required.” 18 U.S.C. § 3142(f). Defendant has offered no new information, nor has he offered any plausible argument that his violations of the conditions of his release or his failure to appear would not be repeated should the court again release Defendant on bond. Accordingly,

IT IS ORDERED that Defendant’s “Motion for Reconsideration of Order of Detention” [Dkt. # 19] is DENIED.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: January 24, 2011

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, January 24, 2011, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522